

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

RAYMOND MARRERO,

Plaintiff,

vs.

MENARD, INC.

Defendant.

8:21CV324

ORDER

This matter is before the Court on defendant's motion to reconsider, [Filing No. 61](#), this Court's Memorandum and Order on summary judgment, [Filing No. 60](#). The Court has reviewed the motion to reconsider, and the evidence submitted therewith,¹ and finds the motion to reconsider is without merit.

The Court's review of the video submitted by the defendant did not change the Court's holding that undisputed evidence supports the finding that the plaintiff was not contributorily negligent in connection with the incident at issue. In view of the defendant's employee's admission that he started the order selector without checking the direction of its wheels and without checking the surrounding area for people, there was essentially no zone of safety for the plaintiff. The evidence shows that the plaintiff was either at or near his truck when the defendant's employee hit him with the order selector. Accordingly, the Court will deny the motion.

THEREFORE, IT IS ORDERED THAT defendant's motion to reconsider, [Filing No. 61](#), is denied.

Dated this 6th day of March, 2023.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge

¹ The video of the incident, though referred to in deposition testimony, was not submitted to the Court in conjunction with the motion. Accordingly, the Court need not consider the evidence. Nevertheless, the Court has examined the video and finds it does not change the Court's conclusion.